

4. This Court has personal jurisdiction over Virtus by virtue of the fact that Virtus conducts business in the State of Texas, and has availed itself of the rights and benefits of Texas law, has engaged in substantial and continuing contacts with the State, and has infringed Mission Pharmacal's patent rights through sales in Texas.

5. Venue is proper in this Court under 28 U.S.C. §§ 1391 (b) and (c) and 1400(b).

FACTS

6. Mission Pharmacal is the owner as assignee of United States Patent No. 6,521,247 ("the '247 Patent"). The '247 Patent lawfully issued on February 18, 2003. A copy of the '247 patent, along with its reexamination certificate, is attached as Exhibit A.

7. The '247 Patent claims, among other things, a nutritional supplement containing both a slowly dissolving and a rapidly dissolving iron compound, a method of alleviating iron deficiency with the dual iron nutritional supplement, and a method of making the dual iron nutritional supplement.

8. Mission Pharmacal sells CitraNatal® prescription prenatal supplements covered by the '247 Patent and used for combating iron deficiency anemia before, during, and after pregnancy.

9. Upon information and belief, Virtus manufactures, imports, sells, and offers to sell, and induces others to sell, offer to sell, and use, certain prenatal supplements including Natalvirt CA and Natalvirt 90 DHA in this jurisdiction and elsewhere in the United States in competition with Mission Pharmacal.

10. On information and belief, the formulation, use, and method of making Natalvirt CA and Natalvirt 90 DHA are covered by claims of the '247 Patent.

11. Mission Pharmacal marks its products with the '247 patent. On information and belief, Virtus knew about the patent when it copied the ingredients of CitraNatal Assure for its Natalvirt CA supplement and CitraNatal 90 DHA for its Natalvirt 90 DHA supplement.

COUNT I

PATENT INFRINGEMENT

12. Upon information and belief, Virtus has and will continue to directly infringe, and induce others to infringe, the '247 Patent through Virtus's manufacture, sale, and distribution of certain nutritional supplements, including Natalvirt CA and Natalvirt 90 DHA.

13. Mission Pharmacal has been damaged by Virtus's infringement of the '247 Patent, and its continued sales of Natalvirt CA and Natalvirt 90 DHA has caused monetary damages, including but not limited to lost profits. The injury to Mission Pharmacal is continuing and irreparable unless enjoined by this Court.

14. Upon information and belief, Virtus was aware of the '247 patent and has infringed despite an objectively high likelihood that its actions constitute infringement of a valid patent, thereby infringing willfully.

PRAYER FOR RELIEF

Plaintiff Mission Pharmacal respectfully requests the Court enter a judgment awarding Plaintiff the following:

A. A permanent injunction against Virtus and others acting in concert with it from engaging in directly, or inducing others to engage in, the commercial manufacture, distribution, use, offer to sell, or sale of supplements as claimed by the '247 patent, including, Natalvirt CA and Natalvirt 90 DHA, and all other acts of infringement of the '247 patent, prior to the expiration of that patent;

B. Actual damages, but not less than a reasonable royalty;

- C. Treble damages based on a finding of willful infringement against Virtus under 35 U.S.C. § 284.
- D. Prejudgment and post-judgment interest;
- E. Mission Pharmacal's attorneys' fees under 35 U.S.C. § 285; and
- F. All other relief as the Court may deem appropriate.

JURY DEMAND

Plaintiff Mission Pharmacal demands a trial by jury on all issues.

Dated: March 7, 2013

By /s/ Charles B. Walker, Jr.

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